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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/059,538 | 01/29/2002 | Dale Knoop | 1799 | 5786 |

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EXAMINER

PEREZ GUTIERREZ, RAFAEL

| ART UNIT | PAPER NUMBER |
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2686

DATE MAILED: 12/09/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/059,538

Applicant(s)

Knoop

Examiner

Rafael Perez-Gutierrez

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2686

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement submitted on June 3, 2002 has been considered by the Examiner and made of record in the application file.

Drawings

2. The drawings are objected to because of the following minor informality: On **figure 1 step 56**, replace "CONENT" with --CONTENT--. Appropriate correction is required.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified

Art Unit: 2686

and informed of any required corrective action in the next Office Action. If a response to the present Office Action fails to include proper drawing corrections, corrected drawings or arguments therefor, the response can be held **NON-RESPONSIVE** and/or the application could be **ABANDONED** since the objections/corrections to the drawings are no longer held in abeyance.

Claim Objections

4. **Claim 9** is objected to because of the following informality: On **line 1**, replace "claim 1" with --claim 3-- or replace "the" with --a-- before "capability" in order to provide proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 2686

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 1-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Mosher et al. (U.S. Patent Application Publication # 2002/0099790 A1)** in view of **Granade et al. (U.S. Patent Application Publication # 2002/0103881 A1)**.

Consider **claims 1, 12, and 13**, Mosher et al. clearly show and disclose a method of selecting a transmission mode for streaming media content to a wireless handset (figures 3A-3G, 5 and 6, and paragraphs 0015 and 0034-0040), the method comprising:

presenting on the wireless handset a set of choices indicating transmission modes for streaming media content to the wireless handset (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104, 0113, 0122-0124, 0252, and 0277);

receiving from a user of the wireless handset an indication of a transmission mode selected from the set of choices (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104, 0113, 0122-0124, 0252, and 0277);

sending from the wireless handset to a media server an indication of the selected transmission mode (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104, 0113, 0122-0124, 0252, and 0277); and

receiving into the wireless handset media content streamed from the media server at the selected transmission mode (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104,

Art Unit: 2686

0113, 0122-0124, 0252, and 0277).

However, Mosher et al. do not specifically disclose that the set of choices is tailored based on at least one presentation capability of the wireless handset.

Granade et al. clearly show and disclose a method for selecting a transmission for streaming media content to a wireless handset in which a set of choices is tailored based on at least one presentation capability of the wireless handset for the purpose of facilitating presentation of the media content (abstract, figures 1, 3, and 6-8, and paragraphs 0010, 0012, 0025, 0029, 0029, 0043-0046, 0060-0062, and 0069-0071).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to tailor the set of choices based on the presentation capability of the handset as taught by Granade et al. in the method of taught by Mosher et al. for the purpose of facilitating presentation of the media content.

Consider **claims 2, 3, and 8**, and **as applied to claim 1 above**, Mosher et al., as modified by Granade et al., further show and disclose:

sending the set of choices from the media server to the wireless handset (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104, 0113, 0122-0124, 0252, and 0277); and

the media server establishing the set of choices to send to the wireless handset using a type of media content (figures 3A-3G, and paragraphs 0058, 0062-0077, 0091, 0104, 0113, 0122-0124, 0252, and 0277).

Consider **claims 4-7, 9-11, and 14-17**, and **as applied to claims 1, 3, and 12 above**, Granade et al. further show and disclose sending from the wireless handset to the media server a

Art Unit: 2686

capability indication for the wireless handset, wherein sending a capability indication further comprises sending from the wireless handset to the media server an indication of a make and model of the wireless handset (e.g., SIP INVITE message), wherein the capability indication indicates the at least one presentation capability, and wherein the at least one presentation capability defines a capability of a media player application, is selected by the user, and includes a plurality of presentation capabilities (abstract, figures 1, 3, and 6-8, and paragraphs 0010, 0012, 0025, 0029, 0029, 0043-0046, 0060-0062, and 0069-0071); and

the media server using the capability indication as a basis to establish the set of choices to send to the wireless handset (abstract, figures 1, 3, and 6-8, and paragraphs 0010, 0012, 0025, 0029, 0029, 0043-0046, 0060-0062, and 0069-0071).

Claims 18-21 are similarly rejected from the same reasons explained in detail above for **claims 1-17**.

Conclusion

7. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

220 S. 20th St.
Crystal Plaza Two, Lobby, Room 1B03

Art Unit: 2686

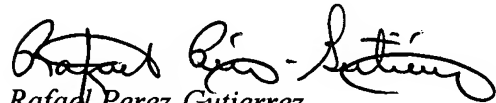
Arlington, VA 22202

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.



Rafael Perez-Gutierrez
R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**
PATENT EXAMINER

December 8, 2004